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| 10/527,314 | 03/10/2005 | Johannes Rietschel | 266946US2PCT | 9596 |
| 22850 | 7590 | 09/02/2005 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | CABRERA, ZOILA E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2125 | |

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/527,314

Applicant(s)

RIETSCHER, JOHANNES

Examiner

Zoila E. Cabrera

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/10/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The metes and bounds of claims 27 and 28 cannot be readily determined. It is not clear whether all steps of the method are included in these claims. Applicant is suggested to re-write the claims in independent form.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-16, 18, 24-25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Cler (US 4,897,798).

Regarding claims 15-16, 18, 24, 25, and 28 Cler discloses:

Claim 15 (New): A method for controlling thermal flows in at least one building, according to which means for controlling temperature; within the building are controlled based on a plurality of input parameters, wherein the means for controlling the

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temperature control the temperature of a specific space, or at least of an area of a specific space, under consideration and are actuated by using, as input parameters (Fig. 2);

a) at least one target value and/or a desired temperature of the specific space (Col. 2, lines 10-17)

b) at least one general parameter characteristic; of at least one variable inside and/or outside the building, which parameter at least indirectly controls the temperature within the specific space (Col. 4, lines 10-13); and

c) at least one specific parameter characteristic of specific thermal flow conditions of the specific space, or of the area of the specific space, under consideration (Col. 3, line 38- Col. 5, lines 41);

and control of the means for controlling the temperature is calculated from these input parameters in a control unit (Fig. 1, element 102; Fig. 2).

Claim 16 (New): The method as claimed in claim 15, wherein the means for controlling the temperature includes at least one heater and/or at least one air conditioning system and/or at least one ventilation system and/or at least one device for controlling solar radiation into the space (Fig. 1, element 101).

Claim 18 (New): The method as claimed in claim 15, wherein the at least one general parameter (b) is a parameter, or a selection from the following parameters, measured by sensors: temperature on the outside of the building under consideration (Col. 4, lines 12-13, please note that only one parameter is required); humidity on the

outside of the building under consideration; wind on the outside of the building under consideration; solar radiation on the outside of the building under consideration;

wherein these general parameters (b) are measured at a plurality of locations with different climatic controls (Col. 5, lines 50-55).

Claim 24 (New): The method as claimed in claim 15, wherein the value of the temperature in the specific space under consideration **and/or** the value of the temperature in adjacent specific spaces under consideration are used as input parameters (Col. 5, lines 50-55).

Claim 25 (New): The method as claimed in claim 15, wherein **the at least one specific parameter (c) is one of, or a selection from, the following parameters:** window face (Col. 4, line 2; Col. 3, lines 51-52); insulation state; orientation of the space under consideration with respect to a cardinal direction and solar radiation; shadowing by adjacent buildings and/or vegetation - if appropriate season-specifically - or topography; height of building above sea level; coordinates of the building;

wherein these specific parameters (c) are either determined once and input into the control unit, (Col. 4, line 20 – Col. 5, line 41; Fig. 2). **and/or** wherein an entire control of at least some of the specific parameters (c) is determined automatically by the control unit in a continuous adaptation process taking into account the control of the general parameters (b) and the executed actuation of the means for temperature control on the value that is actually brought about in the specific space.

Claim 28 (New): A data processing program for carrying out a method as claimed in claim 15 in a control unit (Fig. 1, elements 102-103; Fig. 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 19-23, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cler** (US 4,897,798) in view of Brown (US 6,862,529).

Regarding claim 26, **Cler** discloses the limitations of claim 15 above and further discloses, regarding claim 26, at least one control unit with which means for controlling the temperature within the building under consideration are controlled, a plurality of sensors for determining the parameters (b, c) (Fig. 1, elements 102-103, 105).

However, **Cler** does not disclose some limitations of claim 26 and the limitations of claims 17, 19-23, and 27. But **Brown** discloses such limitations as follows:

Claim 17 (New): The method as claimed in claim 15, wherein the control unit has access to a database in which historical values of the parameters (b, c) and the target values (a) of the specific space under consideration and/or the specific building under consideration are contained, and wherein the control of the means for controlling the temperature is carried out based on the input parameters taking into account these historic values, wherein the control of the means for controlling the temperature based

on the input parameters is in an adaptation process while taking into account these historic values (Col. 7, lines 37-66).

Claim 19 (New): The method as claimed in claim 18, wherein information about the weather forecast, of the region, is additionally used as a general parameter (b), and/or wherein sunrise and sunset are additionally calculated and are used for the control (Col. 8, lines 38-42; Col. 7, lines 63-66).

Claim 20 (New): The method as claimed in claim 18, wherein the general parameters (b) are transferred periodically or continuously to the control unit at least partially via a cabled or cableless network, via at least one of a LAN, wireless LAN, GPRS, using standard protocols of at least one of SMTP, ftp, http (Fig. 2; Col. 7, lines 48-56; Col. 4, lines 61-67).

Claim 21 (New): The method as claimed in claim 18, wherein the general parameters (b) are measured at at least one other building, and are further used as input parameters, wherein the at least one other building is arranged adjacently or at a distance that is relevant for the climate of the building under consideration, wherein such general parameters (b) of the at least one other building are taken into account as a function of the weather forecast and/or the wind direction and/or the wind speed (Fig. 2, elements 56a to 56n; Col. 6, lines 30-31; Fig.).

Claim 22 (New): The method as claimed in claim 21, wherein the input parameters from the at least one other building are transmitted, or made available, to the control unit of the building under consideration via the at least one of the www, a

WAN, a LAN, and wherein the building under consideration itself makes its data available to the at least one other building in the same way (Fig. 2).

Claim 23 (New): The method as claimed in claim 21, wherein a plurality of buildings make available their general parameters (b) to a database and in each case the control units of other buildings can access the totality of this data (Fig. 2).

Claim 26 (New): A device for controlling the thermal flows in at least one building using a method as claimed in claim 15, comprising: configured to access a weather forecast, and a communications network, in a form of a LAN, WAN, www, via which the parameters (b, c) are transferred from the sensors to the control unit or via which the weather forecast is transferred to the control unit (Figs. 3, 4).

Claim 27 (New): A control unit for carrying out a method as claimed in claim 15, comprising: at least one processor, internal means for storing data, and at least one network interface, wherein a database on which the data of the input parameters and the actually achieved target values are continuously recorded is provided in the means for storing data, and wherein the control unit is configured such that means for temperature control are actuated based on instantaneous input parameters taking into account the history contents of the database in an optimizing and learning fashion (Fig. 2; Col. 7, line 36—Col. 8, line 4)

Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the adaptive environment control system of **Cler** with the system of **Brown** because it would provide an improved system for

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managing multiple diverse environmental measurement devices and further for managing a particular environment (Col. 2, lines 40-45).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (571) 272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. Additionally, the fax phones for Art Unit 2125 are (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Zoila Cabrera
Patent Examiner
8/30/05

